

REMARKS/ARGUMENTS

The Office Action mailed July 2, 2003, has been received and reviewed. Claims 1 through 33 are currently pending in the application. Claims 1 through 33 stand rejected. Applicants have cancelled claims 3-4, 11, 13-15, 17 and 27-32, amended claims 1, 2, 5-10, 12, 16, 18-26 and 33, and respectfully request reconsideration of the application as amended herein.

Oath/Declaration

The oath or declaration has been objected to as being defective, and a new oath or declaration in compliance with 37 CFR 1.67(a) is required. Applicants submit herewith a new declaration in compliance with the Examiner's request which properly references the provisional application from which the present application claims benefit.

Drawings

The drawings have been objected to as failing to comply with 37 CFR 1.84(p)(4) and (5), and corrected drawings are required in reply to the Office Action.

Applicants have revised FIG. 1 to show reference numerals 17a and 17b with associated lead lines. With respect to the remaining objections to the drawings, Applicants have amended the specification to make the specification consistent with the drawings and remove and perceived ambiguity. Applicants submit that such revisions address the Examiner's objections and respectfully request reconsideration of the drawings.

Specification

Applicants have amended the specification in accordance with the Examiner's suggestions to correct typographical and clerical errors. Applicants respectfully request reconsideration of the specification.

Claim Objections

Claims 1 and 19 are objected to because of informalities. Applicants have amended claims 1 and 19 to address such informalities and respectfully request reconsideration of the same.

35 U.S.C. § 102(b) Anticipation Rejections

Anticipation Rejection Based on U.S. Patent No. 5,890,727 to May

Claims 1 through 5, 10, 11, and 15 through 17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by May (U.S. Patent No. 5,890,727). Applicants note that claims 11, 15 and 17 have been cancelled herein, and that claims 1 through 4, 10 and 16 now depend from independent claim 18 either directly or by way of intervening claims.

As such, the anticipation rejection of claims 1 through 5, 10, 11 and 15 through 17 as being anticipated by May are not addressed herein. The obviousness rejection of claim 18 is addressed below herein.

Anticipation Rejection Based on U.S. Patent No. 5,890,727 to May

Claim 30 stands rejected under 35 U.S.C. § 102(b) as being anticipated by May (U.S. Patent No. 5,890,727). Applicants respectfully traverse this rejection, as hereinafter set forth.

Applicants note that claim 30 has been cancelled herein.

Anticipation Rejection Based on U.S. Patent No. 5,725,229 to McWethy

Claim 33 stands rejected under 35 U.S.C. § 102(b) as being anticipated by McWethy (U.S. Patent No. 5,725,229). Applicants respectfully traverse this rejection, as hereinafter set forth.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention

must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Independent claim 33, as amended herein, is directed to an apparatus comprising: a trunnion extending in a first direction; a base having a first end and a second end, secured proximate the first end to the trunnion; *a mount secured to the base and positionable relative thereto between a first position wherein the mount extends from the base, and at least a second position substantially half a revolution from the first position wherein the mount is juxtaposed adjacent the trunnion*; a fastener engaging the mount to selectively position the mount with respect to the base in the first position and in the at least a second position; and a hitch coupled with the mount, the hitch including a first ball extending in a first direction, and at least a second ball extending in a second direction, *wherein the first ball and the second ball are formed together as a homogeneous monolith of a single material*. Applicants submit that McWethy fails to teach all of the limitations of the presently claimed invention.

The Examiner cites McWethy as disclosing an apparatus which comprises: a trunnion (150) extending in the longitudinal direction, a base (118) having a forward end and a rearward end, secured proximate the forward end to the trunnion; a mount (120) secured to the base to receive a hitch (56); a fastener (132) engaging the mount to selectively position the mount with respect to the base in a towing position and in a stowed position substantially half a revolution therefrom, the stowed position rendering the mount inaccessible for towing. With respect to the selective positioning of the mount, the Examiner states that “if, for example, hitch ball 56c, as shown in Figure 5, is positioned pointing vertically upwardly, and the entire unit is rotated half a rotation to the left, the apparatus would not be accessible for towing.” (Office Action, page 6). Applicants respectfully traverse this rejection.

McWethy discloses an apparatus for towing a vehicle which includes a plurality of hitch members (i.e., balls 56a-56c and pintel assembly 61, 62) with hitch member being disposed on a side of a rectangular shank 12. The shank may be oriented prior to its insertion into a receiver member 20 such that a desired hitch member is presented for coupling with a vehicle which is to be towed. With respect to the embodiment shown in FIG. 5, a vertical bar 118 is provided to

allow vertical adjustability of the hitch members. (See, e.g., col. 9, lines 53-58). Applicants find no teaching by McWethy of rotating a mount (e.g., 120) relative to a base (e.g., 118) a half a rotation. Nor does the Examiner point to any such teaching.

Moreover, Applicants submit that McWethy fails to teach a mount secured to the base and positionable relative thereto between *a first position wherein the mount extends from the base*, and *at least a second position substantially half a revolution from the first position wherein the mount is juxtaposed adjacent the trunnion*.

Additionally, Applicants submit that McWethy fails to teach a hitch coupled with the mount, the hitch including a first ball extending in a first direction, and at least a second ball extending in a second direction, *wherein the first ball and the second ball are formed together as a homogeneous monolith of a single material*.

As such, Applicants submit that claim 33 is clearly not anticipated by McWethy. Applicants respectfully request reconsideration and allowance of claims 33.

35 U.S.C. § 103(a) Obviousness Rejections

Obviousness Rejection Based on U.S. Patent No. 5,890,727 to May

Claims 6 through 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over May (U.S. Patent No. 5,890,727). Applicants respectfully traverse this rejection, as hereinafter set forth.

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations**. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

The 35 U.S.C. § 103(a) obviousness rejections are improper because the references relied upon by the Examiner do not teach or suggest all of the limitations of the presently claimed invention.

Applicants note that claims 6 through 9 have been amended herein such that they now depend from independent claim 18 either directly or through intervening claims. Claim 18, as amended herein is directed to an apparatus comprising: a base having a supporting portion to connect to a vehicle; a mount, *having a first end pivotably secured to the base to support pitching of the mount with respect to the base between a stowed position wherein the mount is juxtaposed adjacent the supporting portion of the base on a first side of the base and a deployed position suitable for towing wherein the mount extends from the base on a second side thereof*; and a hitch coupled with the mount, the hitch including a first ball extending in a first direction, and at least a second ball extending in a second direction, distinct from the first direction wherein the first ball and the second ball are formed together as a homogeneous monolith of a single material.

Applicants respectfully submit that May fails to teach or suggest all of the limitations of independent claim 18. As such, claims 6 through 9 are allowable over May at least by virtue of their dependency from an allowable base claim.

Applicants respectfully request reconsideration and allowance of claims 6 through 9.

Obviousness Rejection Based on U.S. Patent No. 5,890,727 to May in View of U.S. Patent No. 4,807,899 to Belcher

Claims 12 through 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over May (U.S. Patent No. 5,890,727) in view of Belcher (U.S. Patent No. 4,807,899). Applicants respectfully traverse this rejection, as hereinafter set forth.

Applicants note that claims 13 and 14 have been cancelled herein and that claim 12 has been amended herein such that it now depends directly from independent claim 18. Claim 18, as amended herein is directed to an apparatus comprising: a base having a supporting portion to connect to a vehicle; a mount, *having a first end pivotably secured to the base to support*

pitching of the mount with respect to the base between a stowed position wherein the mount is juxtaposed adjacent the supporting portion of the base on a first side of the base and a deployed position suitable for towing wherein the mount extends from the base on a second side thereof; and a hitch coupled with the mount, the hitch including a first ball extending in a first direction, and at least a second ball extending in a second direction, distinct from the first direction wherein the first ball and the second ball are formed together as a homogeneous monolith of a single material.

Applicants respectfully submit that May and Belcher fail to teach or suggest all of the limitations of independent claim 18. As such, claim 12 is allowable over May and Belcher at least by virtue of its dependency from an allowable base claim.

Applicants respectfully request reconsideration and allowance of claim 12.

Obviousness Rejection Based on U.S. Patent No. 5,725,229 to McWethy in View of U.S. Patent No. 5,890,727 to May

Claims 18 through 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McWethy (U.S. Patent No. 5,725,229) in view of May (U.S. Patent No. 5,890,727). Applicants respectfully traverse this rejection, as hereinafter set forth.

Independent claim 18, as amended herein, is directed to an apparatus comprising: a base having a supporting portion to connect to a vehicle; a mount, *having a first end pivotably secured to the base to support pitching of the mount with respect to the base between a stowed position wherein the mount is juxtaposed adjacent the supporting portion of the base on a first side of the base and a deployed position suitable for towing wherein the mount extends from the base on a second side thereof;* and a hitch coupled with the mount, the hitch including a first ball extending in a first direction, and at least a second ball extending in a second direction, distinct from the first direction wherein the first ball and the second ball are formed together as a homogeneous monolith of a single material.

The Examiner cites McWethy as disclosing an apparatus which comprises: a base (118) having a supporting portion (150) to connect to a vehicle; a mount (120) having a proximal end

and a distal end, the proximal end pivotably (through 142 and 144) secured to the base to support pitching of the mount with respect to the base between a stowed position and a deployed position suitable for towing; a first ball hitch (56a) extending in a first direction; a second ball hitch (56c) extending in a second direction, distinct from the first direction; a stem (20) extending in a third direction, distinct from both the first and second directions, away from the first and second ball hitches to selectively support the first ball hitch and the second ball hitch in the respective deployed position thereof; and the stem, pivotably securing to the distal end of the mount to provide a rolling motion of the first and second ball hitches with respect to the mount (through 132), further comprising a first lock (146, 148) to selectively maintain the mount in the stowed position and the deployed position and a second lock (133) to selectively maintain the first and second ball hitches at multiple degrees of rotation with respect to the mount.

The Examiner cites May as disclosing first and second ball hitches formed together as a homogenous monolith of a single material. The Examiner then states that it would be obvious to one of ordinary skill in the art, at the time the invention is made, to provide first and second ball hitches formed together as a homogenous monolith of a single material on the McWethy apparatus, as taught by May, in order to provide an integrally formed multi-ball hitch from readily available stock material. Applicants respectfully traverse this rejection.

As discussed above, McWethy discloses an apparatus for towing a vehicle which includes a plurality of hitch members (i.e., balls 56a-56c and pintel assembly 61, 62) with each hitch member being disposed on a side of a rectangular shank 12. The shank may be oriented prior to its insertion into a receiver member 20 such that a desired hitch member is presented for coupling with a vehicle which is to be towed. With respect to the embodiment shown in FIG. 5, a vertical bar 118 is provided to allow vertical adjustability of the hitch members. (See, e.g., col. 9, lines 53-58). However, Applicants submit that McWethy fails to teach or suggest a mount which is pivotably secured to a base. More particularly, while the Examiner points to elements 140 and 142 as pivots or pivot locations, Applicants note that elements 140 and 142 are described as “securing pins” which “provide means for releasably locking said sleeve member 120 of said

vertical bar 118.” (Col. 10, lines 20-22). McWethy fails to teach or suggest any pivoting motion of the sleeve 120 about the pins 140 and 142.

Moreover, Applicants submit that the embodiment shown and described with respect to FIG. 5 would not accommodate rotation of the sleeve 120 about either of the pins 140 and 142 due to the physical and geometrical arrangement of such components. For example, if pin 140 was removed such that rotation about pin 142 was attempted, the complementary and cooperative fit between sleeve 120 and the vertical bar 118 would prevent any such rotation (i.e., the upper or lower edge of the sleeve 120 would interfere with the vertical bar 118 impeding such rotation).

Furthermore, Applicants submit that McWethy fails to teach or suggest a pivoting arrangement which supports pitching of the mount with respect to the base between *a stowed position wherein the mount is juxtaposed adjacent the supporting portion of the base on a first side of the base*, and *a deployed position suitable for towing wherein the mount extends from the base on a second side thereof*. Applicants further submit that May fails to teach or suggest such subject matter.

Applicants, therefore, submit that claim 18 is allowable over the combination of McWethy and May. Applicants further submit that claims 19 and 20 are allowable as being dependent from an allowable base claim as well as for the additional patentable subject matter introduced thereby.

With respect to claim 19, Applicants submit that McWethy and May each fail to teach or suggest a first lock located and configured to selectively maintain the mount in one of the stowed position and the deployed position.

Applicants, therefore, respectfully request reconsideration and allowance of claims 18 through 20.

Obviousness Rejection Based on U.S. Patent No. 4,232,877 to Milton in View of U.S. Patent No. 5,890,727 to May

Claims 21 through 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Milton (U.S. Patent No. 4,232,877) in view of May (U.S. Patent No. 5,890,727). Applicants respectfully traverse this rejection, as hereinafter set forth.

Applicants note that claims 21 through 24 have been amended herein to depend from claim 33, either directly or by way of intervening claims. Independent claim 33, as amended herein, is directed to an apparatus comprising: a trunnion extending in a first direction; a base having a first end and a second end, secured proximate the first end to the trunnion; *a mount secured to the base and positionable relative thereto between a first position wherein the mount extends from the base, and at least a second position substantially half a revolution from the first position wherein the mount is juxtaposed adjacent the trunnion*; a fastener engaging the mount to selectively position the mount with respect to the base in the first position and in the at least a second position; and a hitch coupled with the mount, the hitch including a first ball extending in a first direction, and at least a second ball extending in a second direction, wherein the first ball and the second ball are formed together as a homogeneous monolith of a single material.

Applicants submit that Milton and May fail to teach all of the limitations of claim 33 of the presently claimed invention. More particularly, Milton and May fail to teach or suggest *a mount secured to the base and positionable relative thereto between a first position wherein the mount extends from the base, and at least a second position substantially half a revolution from the first position wherein the mount is juxtaposed adjacent the trunnion*.

Applicants, therefore, submit that claims 21 through 24 are allowable at least by virtue of their dependency from an allowable base claim. Applicants respectfully request reconsideration and allowance of claims 21 through 24.

Obviousness Rejection Based on U.S. Patent No. 4,232,877 to Milton in View of U.S. Patent No. 5,890,727 to May and Further in View of U.S. Patent No. 5,725,229 to McWethy

Claims 25 through 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Milton (U.S. Patent No. 4,232,877) in view of May (U.S. Patent No. 5,890,727), as applied to claim 21 above, and further in view of McWethy (5,725,229). Applicants respectfully traverse this rejection, as hereinafter set forth.

Applicants note that claims 27 through 29 have been cancelled and that claims 25 and 26 now depend from independent claim 33 by way of intervening claims. As set forth above, Applicants submit that Milton, May and McWethy fail to teach or suggest all of the limitations of independent claim 33. More particularly, Milton, May and McWethy fail to teach or suggest *a mount secured to the base and positionable relative thereto between a first position wherein the mount extends from the base, and at least a second position substantially half a revolution from the first position wherein the mount is juxtaposed adjacent the trunnion.*

Applicants, therefore, submit that claims 25 and 26 are allowable at least by virtue of their dependency from an allowable base claim. Applicants respectfully request reconsideration and allowance of claims 25 and 26.

Obviousness Rejection Based on U.S. Patent No. 5,725,229 to McWethy in View of U.S. Patent No. 5,890,727 to May

Claims 31 and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McWethy (U.S. Patent No. 5,725,229) in view of May (U.S. Patent No. 5,890,727). Applicants respectfully traverse this rejection, as hereinafter set forth.

Applicants note that claims 32 and 33 have been cancelled herein.

ENTRY OF AMENDMENTS

The amendments to claims 1, 2, 5-10, 12, 16, 18-26 and 33 above should be entered by the Examiner because the amendments are supported by the as-filed specification and drawings and do not add any new matter to the application.

CONCLUSION

Claims 1, 2, 5 through 10, 12, 16, 18 through 26 and 33 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicants' undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bradley B. Jensen", followed by a long horizontal line extending to the right.

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